

Case: United States v. Mario Arnaldo Henriquez  
05 Cr. 1314 (KMK)

Date: April 4, 1991

Participants: Judge Leonardo D'Ambrosio  
John Furlong - INS Attorney

Abbreviations:	U/I	= Unintelligible
	(ph)	= Phonetic Spelling
	//	= Voices overlap
	sl	= Sounds like

1 Judge: This is a continued hearing of deportation in the matter of Mario  
2 Arnaldo Henriquez, file A1234175. This hearing is being held at the  
3 Executive Office for Immigration Review, Boston, Mass. April 4,  
4 1991, before Immigration Judge Leonardo D'Ambrosio. Now, for  
5 the record, the above named respondent is not present, but appearing  
6 on behalf of the Immigration and Naturalization Service, John M.  
7 Furlong, General Attorney, Immigration Naturalization Service, JFK  
8 Federal Building. Government Center, Boston, Mass. 02203. Mr.  
9 Furlong, would you identify yourself.

10 Furlong: Yes, Judge, John M. Furlong, F-U-R-L-O-N-G, trial attorney Boston,  
11 visiting your courtroom today, Your Honor.

12 Judge: Mr. Furlong, the respondent is not present. Have you been notified in  
13 anyway whether or not he would appear today?

14 Furlong: I've had no telephonic or written communication to any third party.

15 Judge: Do you have any appearance of any other counsel, other than the  
16 appearance previously submitted by Eva H. Clark?

17 Furlong: I do not, Your Honor.

18 Judge: Have you received any motions for venue change?

19 Furlong: None. No motions for a venue change.

20 Judge: No. To the best of my knowledge and information, the Court has not  
21 received any notice that the respondent would not appear in any  
22 manner. Nor has the Court had any other appearance of counsel, than  
23 the one, Eva H. Clark. I understand from listening to the tapes that  
24 she's been suspended or disbarred, but it appears that she is not  
25 longer is representing the respondent. There is no evidence that she  
26 ever submitted a motion for withdrawal of counsel. Respondent has  
27 mentioned in the previous hearings an attempt to obtain substitute  
28 counsel. But as of this date, there is no word or communication from  
29 respondent he was successful in obtaining substitute counsel. Now,  
30 it's approximately 2:15 PM. This case was scheduled on this date at  
31 1:00 pm. You made a search of the premises to determine whether or  
32 not the respondent was present Mr. Furlong?

1 Furlong: Before you went on the record, Your Honor, I visited the entire floor  
2 here. I looked in the other courtrooms, except the one that is  
3 detaining the guards. They tell me there's nobody in there. U/I  
4 detained respondents. And I went into the men's room, and there was  
5 nobody on the floor.

6 Judge: What is the U/I

7 Furlong: Your Honor, I would like to go forward in his absence here today,  
8 Your Honor.

9 Judge: Well, noting that the respondent has not appeared, no notices have  
10 been given to the Court. U/I service respondents, that would not  
11 appear. No reasonable explanation has been provided. The case will  
12 proceed in absentia. I'm marking into the record as Exhibit number  
13 2 the notice of the hearing for July 17<sup>th</sup>, 1989. That was addressed to  
14 the respondent at the Roslyndale address. That case was then set, I  
15 notice also one to Nancy Kelly of the Greater Boston Legal Services.  
16 That will be Exhibit 3. And there was a hearing for the same date of  
17 July 17, 1989. Then there was a notice of a hearing date sent to Eva  
18 H. Clark, on April 25, 1990, for the hearing of June 8, 1990. I'll  
19 make that Exhibit 4. There were other hearings held, there was a  
20 hearing held on July 17, 1989 and October 31, 1989. A hearing  
21 scheduled for April 23, 1990. That hearing did not go forth. The next  
22 hearing is June 8<sup>th</sup>, 1990. And there's a second notice, another notice  
23 October 25, 1991 addressed to the respondent at an address in New  
24 York. Make the Exhibit 5. And those for that hearing date are set to  
25 respond to his Roslyndale address. Make that Exhibit 6. And those  
26 for that hearing date were sent to his counsel October 25, Eva H.  
27 Clark. Make that Exhibit 7. Usually deportability that hasn't been  
28 resolved in a prior hearing, which respondent U/I deportable. Uh,  
29 Ecuador is U/I seeking under Section 212-C. Mr. , Eh, respondent  
30 was given until reasonable date of December 15, 1989 to submit an  
31 application that was not submitted. He was given until March 15,  
32 1991 to submit a second, a second opportunity to submit the  
33 application and the Court has not received that application. Mr.  
34 Furlong, have you received an application on either one of those two  
35 dates?

36 Furlong: No, Your Honor. U/I my file doesn't reflect, it reflects that of there

1 is no I-191 U/I .

2 Judge: Respondent was specifically informed, advised, obtaining  
3 application, completed and submitted by the date of March 15, 1991  
4 by Immigration Judge. On October 25, 1991. Mr. Furlong, to  
5 complete the record do you have a copy of the record of conviction?

6 Furlong: Your Honor, I have U/I documents from U/I find 2 copies of the first  
7 2 pages of the Visa, saying the gentleman did U/I lawful permanent  
8 resident alien law.

9 Judge: Based on similarity of names? I'll make it part of the record, as  
10 Exhibit 8.

11 Furlong: Now, one more document for your consideration Judge, is a certified  
12 copy of the conviction. It has the respondent's name and has the date  
13 of conviction and the charges. U/I also has U/I Order to Show Cause.

14 Judge: I'll note as to the conviction on March 18, 1986, even though the  
15 cause is not specified on the allegations by, note that it was in the  
16 United States District Court, District of Massachusetts, and uh, the  
17 information as to charge, conspiracy to distribute cocaine and  
18 possession with intent to distribute. Respondent was found guilty on  
19 both counts and sentenced to 5 years served concurrently, on Counts  
20 1 and 2, with a 3 year special parole term. That will be Exhibit 9.  
21 And, even though respondent has pleaded to the allegations in the  
22 charge, I find these documents to establish a factual basis for the  
23 allegations and establish deportability. Since the respondent is not  
24 now, not here, and the seek U/I application for relief and not having  
25 timely applied, file an application, deemed that the application has  
26 been abandoned and it will be entered that the respondent be  
27 deported to Ecuador on the charge contained in the Order to Show  
28 Cause. A copy of the Order will be sent to the respondent's last  
29 known address. Anything further at this time, Mr. Furlong?

30 Furlong: No, nothing further Judge.

31 Judge: The hearing is closed.